

JOURNAL OF THE HOUSE.

Wednesday, May 19, 2004.

Met according to adjournment, at eleven o'clock A.M., with Mrs. Walrath of Stow in the Chair (having been appointed by the Speaker, under authority conferred by Rule 5, to perform the duties of the Chair).

Prayer was offered by the Reverend Robert F. Quinn, C.S.P., Chaplain of the House, as follows:

Eternal God, we begin this legislative session with a fervent desire and a personal prayer for Your assistance in dealing with the items on today's Calendar. The tasks of resolving legislative and public policy issues to the satisfaction of all people is more than a human challenge. In Your goodness, inspire us, in our deliberations, to be reasonable, conscientious, just and prudent in selecting our options. As elected leaders, in whom people place their trust, grant us the wisdom and the skills to build confidence in each other, in our institutions and in our creative ability to meet the current and future needs of people and of this Commonwealth. May the human and spiritual values which You have made known to us clarify for us the issues of the day.

Grant Your blessings to the Speaker, the members and employees of this House and their families. Amen.

At the request of the Chair (Mrs. Walrath), the members, guests and employees joined with her in reciting the pledge of allegiance to the flag.

Statement Concerning Representative Bosley of North Adams.

A statement of Mrs. Harkins of Needham concerning Mr. Bosley of North Adams was spread upon the records of the House, as follows:

MR. SPEAKER: I would like to call to the attention of the House the fact that one of our colleagues, Representative Bosley of North Adams, will not be present in the House Chamber for today's sitting due to medical reasons. Any roll calls that he may miss today will be due entirely to the reason stated.

Statement of Representative Donovan of Woburn.

A statement of Mrs. Donovan of Woburn was spread upon the records of the House, as follows:

MR. SPEAKER: I would like to call to the attention of the House the fact I was not present in the House Chamber for yesterday's sitting due to a prior commitment out of state. Any roll calls that I may have missed was due entirely to the reason stated.

Distinguished Guest of the House.

During the session, the Chair (Mr. Petrolai of Ludlow), declared a brief recess and introduced the Honorable John Engler, Governor of the State of Michigan from 1991 to 2002, inclusive. Governor Engler

Former
Michigan
Governor
John Engler.

Statement of
Representative
Donovan of
Woburn.

Pledge of
allegiance.

Statement
concerning
Representative
Bosley of
North Adams.

was the guest of Representatives Blumer of Framingham, Spilka of Ashland, Naughton of Clinton and Golden of Boston.

Paper from the Senate.

A petition of Mark C. Montigny and William M. Straus for legislation to dedicate certain land in the town of Fairhaven for a memorial to Charles F. Albaugh, came from the Senate referred, under suspension of Joint Rule 12, to the committee on State Administration.

The House then concurred with the Senate in the suspension of said rule; and the petition (accompanied by bill, Senate, No. 2346) was referred, in concurrence, to the committee on State Administration.

Charles F.
Albaugh,
memorial.

Reports of Committees.

By Mr. Scaccia of Boston, for the committee on Rules and the committees on Rules of the two branches, acting concurrently, that Joint Rule 12 be suspended on the following petitions:

Petition (accompanied by bill) of Salvatore F. DiMasi for legislation to further regulate unfair claim settlement practices involving multiple defendants in the business of insurance. To the committee on Insurance.

Multiple
defendants.

Petition (accompanied by bill) of Stephen J. Buoniconti (by vote of the town) that the Division of Capital Asset Management and Maintenance be authorized to convey a certain parcel of land to the town of West Springfield; and

West
Springfield,
land.

Petition (accompanied by bill) of Joseph R. Driscoll and others (by vote of the town) that the town of Braintree be authorized to convey a certain parcel of property to the Braintree Historical Society, Inc., notwithstanding the uniform procurement law;

Braintree,
land
conveyance.

Severally to the committee on State Administration.

Under suspension of the rules, on motion of Mr. Sullivan of Fall River, the reports were considered forthwith. Joint Rule 12 then was suspended, in each instance. Severally sent to the Senate for concurrence.

By Mr. Straus of Mattapoisett, for the committee on Election Laws, on Senate, Nos. 342, 359, 364, 366 and 370 and House, Nos. 691, 693, 2412, 2415, 2416, 2417, 2783 and 2944, an Order relative to authorizing the committee on Election Laws to make an investigation and study of certain Senate and House documents concerning voter registration (House, No. 4745).

Voter
registration,
study.

By the same member, for the same committee, on Senate, Nos. 343 and 344 and House, Nos. 127, 1076, 1855, 2411, 2418, 2585 and 2587, an Order relative to authorizing the committee on Election Laws to make an investigation and study of certain Senate and House documents concerning polling places (House, No. 4746).

Polling
places,
study.

By the same member, for the same committee, on Senate, Nos. 345, 348, 350, 353, 354 and 368 and House, Nos. 126, 332, 1652, 1653, 2230, 2784, 2785, 2945, 2947, 2950, 2952, 3142, 3323 and 4159, an Order relative to authorizing the committee on Election Laws to make an investigation and study of certain Senate and House documents concerning elections (House, No. 4747).

Elections,
study.

Severally referred, under Joint Rule 29, to the committees on Rules of the two branches, acting concurrently.

Subsequently Mr. Scaccia of Boston, for said committees, reported, in each instance, asking to be discharged from further consideration of the orders; and recommending that the same severally be referred to the House committee on Rules.

Under Rule 42, the reports severally were considered forthwith; and they were accepted.

Housing, disabled.

By Mrs. Parente of Milford, for the committee on Long-Term Debt and Capital Expenditures, on Senate, No. 734, reported, in part, a Bill authorizing the funding of the production and modification of housing for people with disabilities (House, No. 4748). Read; and referred, under Rule 33, to the committee on Ways and Means.

Engrossed Bills.

Engrossed bills

Establishing a sick leave bank for a certain employee of the Department of Mental Retardation (see Senate, No. 2336, amended) (which originated in the Senate); and

Relative to the terms of certain bonds to be issued by the Commonwealth (see House bill printed in House, No. 4285) (which originated in the House);

In respect to each of which the Senate had concurred in adoption of the emergency preamble, were passed to be enacted; and they were signed by the acting Speaker and sent to the Senate.

Bills enacted.

Orders of the Day.

House bills

Providing for a certain real property tax exemption in the town of Boxford (House, No. 3908, changed);

Authorizing the town of Bellingham to establish a sewer construction capital fund (House, No. 4014);

Relative to the town administrator of the town of West Boylston (House, No. 4230); and

Authorizing the town of Sandwich to grant conservation restrictions on certain parcels of land in the town of Sandwich (House, No. 4597) (its title having been changed by the committee on Bills in the Third Reading);

Severally reported by said committee to be correctly drawn, were read a third time; and they were passed to be engrossed. Severally sent to the Senate for concurrence.

Third reading bills.

School Building Assistance Program.

The House Bill relative to the School Building Assistance Program (House, No. 4729) was considered.

Pending the question on ordering the bill to a third reading, Mr. Peterson of Grafton moved that it be referred to the committee on Education, Arts and Humanities.

After debate on the motion to refer, the sense of the House was taken by yeas and nays, at the request of the same member, and on the roll call 34 members voted in the affirmative and 118 in the negative.

[See Yeas and Nays No. 639 in Supplement.]

Therefore the motion to refer the bill to the committee on Education, Arts and Humanities was negatived.

Mr. Peterson then moved that the bill be referred to the committee on Long-Term Debt and Capital Expenditures.

After debate on the motion to refer, the sense of the House was taken by yeas and nays, at the request of the same member, and on the roll call 22 members voted in the affirmative and 131 in the negative.

[See Yeas and Nays No. 640 in Supplement.]

Second reading bills.

The Senate Bill relative to the Massachusetts Credit Union Share Insurance Corporation (Senate, No. 2267, amended); and

House bills

Relative to the privacy of municipal employees (House, No. 1325); Authorizing the town of Easton to pay a certain unpaid bill (House, No. 4498);

Relative to reinsurance agreements (House, No. 4655); Relative to disability insurance (House, No. 4657); and

The House Bill concerning storage of personal property upon execution of a summary process judgement (House, No. 2100) was read a second time.

The amendment previously recommended by the committee on Ways and Means,—that the bill be amended in paragraph (b) of section 2, in line 47, by striking out the figures: “\$25,000” and inserting in place thereof the figures: “\$10,000”,—was adopted.

The bill (House, No. 2100, amended) then was ordered to a third reading.

Second reading bill amended.

The House Bill relative to the operation of motorized scooters (House, No. 1544) (its title having been changed by the committee on Bills in the Third Reading), reported by said committee to be correctly drawn, was read a third time.

Pending the question on passing the bill to be engrossed, Mr. Fennell of Lynn moved that it be amended in section 1, in line 4, by inserting after the word “two” (as printed) the word “tandem”.

The amendment was adopted; and the bill (House, No. 1544, amended) was passed to be engrossed. Sent to the Senate for concurrence.

Motorized scooters, regulate.

Recess.

At seventeen minutes after eleven o'clock A.M., on motion of Ms. Jehlen of Somerville (Mrs. Walrath of Stow being in the Chair), the House recessed until the hour of one o'clock P.M.; and at twenty-one minutes after one o'clock the House was called to order with Mr. DiMasi of Boston in the Chair.

Therefore the motion to refer the bill to the committee on Long-Term Debt and Capital Expenditures was negatived.

Mr. Peterson of Grafton then moved that further consideration thereof be postponed to Wednesday, May 26 and specially assigned to the hour of one o'clock P.M.

Motion to
postpone
negatived,
yea and nay
No. 641.

After debate on the motion to postpone, the sense of the House was taken by yeas and nays, at the request of the same member; and on the roll call 33 members voted in the affirmative and 120 in the negative.

[See Yeas and Nays No. 641 in Supplement.]

Therefore the motion to postpone was negatived.

Mr. Peterson then moved that further consideration thereof be postponed to Friday, May 21 and specially assigned to the hour of one o'clock P.M.

Motion to
postpone
negatived,
yea and nay
No. 642.

After debate on the motion to postpone, the sense of the House was taken by yeas and nays, at the request of the same member; and on the roll call 24 members voted in the affirmative and 129 in the negative.

[See Yeas and Nays No. 642 in Supplement.]

Therefore the motion to postpone was negatived.

Mr. Jones of North Reading and other members of the House then moved that the bill be amended by substitution of a Bill to accelerate school building assistance payments to cities, towns, and regional school districts, which was read.

After debate on the question on adoption of the amendment (Mr. Flynn of Bridgewater being in the Chair), the sense of the House was taken by yeas and nays, at the request of Mr. Peterson of Grafton; and on the roll call 28 members voted in the affirmative and 125 in the negative.

[See Yeas and Nays No. 643 in Supplement.]

Therefore the amendment was rejected.

Mrs. Harkins of Needham being in the Chair,— The bill was ordered to a third reading.

Under suspension of the Rules, on motion of Mr. Rogers of Norwood, the bill (having been reported by the committee on Bills in the Third Reading to be correctly drawn) was read a third time forthwith.

Pending the question on passing the bill to be engrossed, Mr. Hall of Westford moved that it be amended in section 13, in line 8, by striking out the word "eight" and inserting in place thereof the word "nine"; and in line 14, by adding after the word "Council" the following words: ", the Associated Subcontractors of Massachusetts". The amendments were adopted.

Mr. Kujawski of Webster then moved that the bill be amended in section 13, in line 80, by striking out the word "nine" (inserted by amendment) and inserting in place thereof the word "ten"; and in line 15, by inserting after the words "American Institute of Architects-Massachusetts" the following words: ", Associated General Contractors of Massachusetts". The amendments were adopted.

After debate Mr. Jones of North Reading and other members of the House moved that the bill be amended by striking out sections 27, 28, 46, 47 and 48; and by adding at the end thereof the following section:

"SECTION 50. There is hereby created a special school building assistance commission to study the commonwealth's school building assistance program, including design, construction, reconstruction,

rehabilitation, financing and reimbursement of school projects. The special commission shall consist of the following members or their designees: the state treasurer; the secretary of the executive office for administration and finance; the commissioner of education; the commissioner of capital asset management and maintenance; the chair of the commonwealth coordinating council; an appointee of the speaker of the house of representatives; an appointee of the president of the senate; the chairpersons of the joint committee on education; and four appointments by the governor, two of whom shall have professional experience in education, design, construction or finance and two of whom shall have executive experience in the administration or finance of local governments or schools. The special commission shall be dissolved on March 31, 2005."

After remarks on the question on adoption of the amendments, the sense of the House was taken by yeas and nays, at the request of Mr. Jones; and on the roll call 27 members voted in the affirmative and 126 in the negative.

Amendments
rejected,
yea and nay
No. 644.

[See Yeas and Nays No. 644 in Supplement.]

Therefore the amendments were rejected.

Mr. Correia of Fall River being in the Chair,— Mr. Jones of North Reading and other members of the House moved that the bill be amended by adding at the end thereof the following section:

"SECTION 50. Notwithstanding the provisions of any general or special law to the contrary, the state comptroller shall transfer \$150,000,000 from the general fund to the school building assistance fund no later than June 30, 2004."

The amendment was adopted.

Ms. Spiliotis of Peabody then moved that the bill be amended in section 46, by adding at the end thereof the following:— Any school project that had been approved prior to July 1, 2004 for any purpose and had been voluntarily withdrawn from the approved list, shall be eligible for reinstatement to the approved list for any purpose consistent with the goals of this chapter, upon approval by the board.

The amendment was adopted.

Mr. Rogers of Norwood then moved that the bill be amended by striking out section 17 and inserting in place thereof the following section:

"SECTION 17. Said section 5 is hereby further amended by striking out paragraph (c) and inserting in place thereof the following paragraph:—

(c) A project shall become an approved school project upon approval of the board in accordance with the provisions of this chapter. Prior to approving any project the board shall determine, in consultation with the commissioner, that adequate provision has been made for children with disabilities as defined in section 1 of chapter 71B, and in the case of elementary facilities, for all-day kindergarten, and that adequate provisions have been made, consistent with local policy, for pre-kindergarten classes and extended day programs, provided, however, that no district shall be required to adopt such pre-kindergarten classes or extended day programs. If a project application is not approved, and the sole reason for such disapproval is the limit on total facilities grants established by section 7

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of this chapter, the application shall be retained by the board and reviewed in the following fiscal year; provided, that in said review, the project shall be ranked and evaluated using the priorities established by section 8 of this chapter; provided, further, that the board shall require a new application from any applicant seeking to make a substantial change in project scope subsequent to disapproval by the board.”.

The amendment was adopted.

The same member then moved that the bill be amended by striking out sections 47 and 48 and inserting in place thereof the following two sections:

“SECTION 47. Notwithstanding any general or special law to the contrary, the board shall not issue maximum eligible cost standards nor size standards for school projects pursuant to section 9 of chapter 70B of the general laws, nor promulgate regulations pursuant to chapter 70B, prior to January 1, 2006. In drafting said regulations, the board shall review the report to be submitted by December 31, 2004 by the special commission established by section 48 of this act, and the needs analysis required by section 17 of chapter 70B of the general laws, as inserted by section 43 of this act, to be completed by the board on June 30, 2005, and shall propose draft regulations, draft cost standards, and draft size standards based on said report and said needs analysis no later than January 1, 2006. The board shall hold no fewer than five hearings on said draft regulations in locations reflective of the geographic diversity of the commonwealth, and shall submit said draft regulations to the joint committee on education, arts, and humanities, which shall have thirty days to review and comment on said regulations. The board shall promulgate final regulations, and approve final cost and size standards no later than July 1, 2006.

SECTION 48. There is hereby established a special commission on school building assistance reform, to review the regulatory and statutory framework of said program. The commission shall be co-chaired by the house and senate chairs of the joint committee on education, arts, and humanities, and shall consist of the following members: two members appointed by the speaker of the house, two members appointed by the senate president, the chairs of the house and senate ways and means committees or their designees, the house and senate chairs of the committee on natural resources, the house and senate chairs of the committee on state administration, the house and senate minority leaders or their designees, the state treasurer or his designee, the secretary of administration and finance or his designee, the commissioner of education or his designee, and two appointments by the Governor, one of whom shall have professional experience in the design, construction, or financing of schools, and one of whom shall be selected from a list provided by the Massachusetts Association of School Committees. The scope of the commission’s study shall include but not be limited to, the appropriateness of existing regulations and laws governing the program, the appropriate cost and size standards, to be promulgated by the board pursuant to section 9 of chapter 70B of the general laws, and all other standards and procedures established in sections 8, 9, and 10 of chapter 70B of the general laws, the feasibility

of requiring prototype designs for school building projects, the feasibility of allowing public-private partnerships in constructing schools, or the use of lease-purchase in providing educational space, the best means to assist in meeting the building needs of charter schools and educational collaboratives, and the feasibility of requiring future school buildings to be constructed so as to facilitate, early Education and Care Programs full day kindergarten, proper tutorial space, and the introduction of wireless technology in the classroom. Said commission shall file a report on its findings no later than December 31, 2004, along with any regulatory and legislative recommendations necessary to carry said recommendations into effect, to the house and senate clerks, the board of trustees established pursuant to section 9 of this act, the chairs of the house and senate ways and means committees, and the house and senate chairs of the joint committee on education, arts, and humanities.”.

The amendment was adopted.

Mr. Finegold of Andover then moved that the bill be amended by adding at the end thereof the following section:

“SECTION 51. Said authority shall be instructed to designate no less than one employee to be a municipal liaison to assist cities and towns with concerns regarding the construction of schools.”.

The amendment was adopted.

Mr. Larkin of Pittsfield then moved that the bill be amended by adding after section 6 the following section:

“SECTION 6A. Said section 2 is hereby further amended, in lines 2 to 7, inclusive, by striking the paragraph contained therein and inserting in place thereof the following paragraph:

“Major reconstruction project”, any capital school facilities or extraordinary maintenance project including, but not limited to, the retrofitting of a school for the purpose of providing wireless or other learning technologies, or the replacement of a roof or heating plant, if it is determined by the board that such project as not been necessitated, in whole or in part, by the failure of an eligible applicant to make adequate and prudent provisions for the care and maintenance of said school.”.

The amendment was adopted.

Mr. Rogers of Norwood then moved that the bill be amended by striking out sections 22 and 23 and inserting in place thereof the following section:

SECTION 23. Said section 8 is hereby further amended by striking out the first and second paragraphs thereof and inserting in place thereof the following:—

The board shall approve school projects and reimbursements under this chapter in accordance with the following order of priorities:

- (1) priority shall be given to school projects needed in the judgment of said board to replace or renovate a building which is structurally unsound or otherwise in a condition seriously jeopardizing the health and safety of school children, where no alternative exists;
- (2) priority shall be given to school projects to eliminate existing severe overcrowding;
- (3) priority shall be given to school projects which have applied for funding in previous fiscal years but have not been approved by

the board pursuant to section 5 of this chapter; provided, that there shall be no substantial change in scope in said project from the time of its initial application:

(4) priority shall be given to school projects needed in the judgment of said board to prevent severe overcrowding expected to result from increased enrollments which must be substantiated;

(5) priority shall be given to projects needed in the judgment of said board for the replacement, renovation or modernization of the heating system in any schoolhouse to increase energy conservation and decrease energy related costs in said schoolhouse;

(6) priority shall be given to any school project needed in the judgment of said board for short term enrollment growth;

(7) priority shall be given to school projects needed in the judgment of said board to replace or add to obsolete buildings in order to provide for a full range of programs consistent with state and approved local requirements;

(8) priority shall be given to projects needed in the judgment of said board to transition from court-ordered and board approved racial balance school districts to walk-to, so-called, or other school districts; and

(9) priority shall be given to school projects needed in the judgment of said board to prevent loss of accreditation;.”

The amendment was adopted.

The same member then moved that the bill be amended by striking out section 44 and inserting in place thereof the following section:

“SECTION 44. Said chapter 70B is hereby further amended by striking out section 18 and inserting in place thereof the following section:—

Section 18. (a) The provisions of this chapter shall not affect the terms of payment of any grant approved by the board of education in accordance with chapter 645 of the acts of 1948, as amended, prior to the date of the enactment of this chapter, and the provisions of this chapter establishing the trust and specifying its powers and duties shall not affect the terms of payment of any grant approved by the board of education prior to July 1, 2004, except that such grant shall be payable by the trust rather than by legislative appropriations. The trust shall review and approve final audits on all projects approved prior to the date of enactment of this chapter and receiving annual payments pursuant to chapter 645 of the acts of 1948 and shall adjust said annual payments in accordance with the results of said audits; provided, further, that any additional amounts owed to the city of Lynn as a result of audits performed in said city shall be paid to the city by the trust in seven installments, the first of which shall be made in fiscal year 2005. Upon the enactment of such provisions of this chapter, the trust shall succeed to all powers theretofore granted to the board of education with respect to projects for which applications were filed prior to such enactment, and the trust shall enjoy such additional powers as the board of the trust may determine to be reasonably necessary or convenient to achieve the purposes of the trust with respect to such projects.

(b) On or before August 1, 2004 the commissioner of education shall submit to the board of the trust a list of school construction

projects, consisting of (i) all projects that have been placed by the commissioner on the priority waiting list, so-called, maintained by the department of education under this chapter as of May 1, 2004 and (ii) all projects in those five communities that have been recognized by the department of education as eligible for inclusion on the priority waiting list and grandfathered pursuant to clause (iii) of the second paragraph of section 329 of chapter 159 of the acts of 2000. With respect to projects included in clause (i) of the preceding sentence, there shall have been no substantial changes in scope from May 1, 2004 to the date the list is submitted to the board of the trust, unless the total grant amount owed to the municipality or district as a result of said change in scope is equal to or less than the total grant amount owed as of May 1, 2004. The list submitted by the commissioner shall include for each project its rank order, the year approved, the subsidy rate and an estimate of reimbursable construction costs. The board of the trust shall provide financial assistance under this chapter to the projects on the list in the order in which they appear on the list, provided that the board may deviate from said order if it determines that it is necessary to do so in order to comply with federal income tax laws or regulations related to the tax exemption of indebtedness incurred by the trust or in order to meet the cash flow needs of a particular city, town or regional school district and provided, further, that projects with respect to which, in the reasonable judgment of the board, no substantial progress shall have been made by July 1, 2009 may be removed by the board from the list. Any project so removed from the list may be the subject of a new grant application to the board under this chapter but shall have no entitlement to funding under this section.”

The amendment was adopted.

Mr. Speltz of Danvers then moved that the bill be amended by adding at the end thereof the following section:

“SECTION 52. The board of trustees shall submit for legislative approval any regulations establishing criteria for the selection of school facilities that will be financed.”

The amendment was rejected.

Mr. Jones of North Reading and other members of the House then moved that the bill be amended [A] by striking out section 9 and inserting in place thereof the following section:

“SECTION 9. Said section 3 is hereby further amended by striking out the second paragraph and inserting place thereof the following four paragraphs:—

An unpaid, independent board consisting of the state treasurer, ex officio, secretary of administration and finance, ex officio, the commissioner of education, ex officio, the commissioner of capital asset management and maintenance, ex officio, and the commissioner of revenue, ex officio, is hereby constituted and to be known as the Massachusetts school modernization and reconstruction trust.

The commissioner of education shall serve as the chairman of the board. The board shall appoint one of its members as vice-chairman. Each member of the board may appoint a designee pursuant to section 6A of chapter 30. Three members of the board shall constitute a quorum and the affirmative vote of three members shall be

necessary for any action taken by the board. No vacancy in the membership of the board shall impair the right of a quorum to exercise all the rights and perform all the duties of the board.

The board shall appoint an executive director, who shall supervise the administrative affairs and general management and operations of the trust and who shall also serve as secretary of the trust, ex officio. The executive director shall receive a salary commensurate with the duties of the office, and may be removed by the board for cause. The executive director may appoint such other officers of the trust as are necessary to the functioning of the trust. The provisions of sections 9A, 45, 46, and 46C of chapter 30, chapter 31, and chapter 150E shall not apply to the executive director or any other employees of the board. The executive director shall, with the approval of the board: (i) plan, direct, coordinate and execute administrative functions in conformity with the policies and directives of the board; (ii) employ professional and clerical staff as necessary; (iii) report to the board on all operations under his control and supervision; (iv) prepare an annual budget and manage the administrative expenses of the trust; and (v) undertake any other activities necessary to implement the powers and duties set forth herein.

The purposes for which the trust is created shall be the provision of financial assistance to cities, towns and regional school districts as beneficiaries of the trust to finance and refinance the costs of approved school projects as provided in, and as necessary to implement the provisions of, this chapter, including without limitation providing for the payment of grants approved pursuant to this chapter and the payment of all costs of the trust, including professional and financial services incident to the conduct of its operations. The board shall establish general policy and review standards regarding school building construction, renovation, maintenance and facility space and administer the school building assistance program in accordance with this chapter. In carrying out its duties, the board shall be guided by the following principles: preservation of open space and minimization of loss of such open space, emphasis on thoughtful community development, and project flexibility that addresses the needs of individual communities and municipalities. In accordance with the terms of any bond resolution, trust or security agreement or credit enhancement agreement, surety bond or insurance policy related to indebtedness incurred by the trust secured by amounts provided to the trust in accordance with section 2NNN of chapter 29, the holders of any such indebtedness and the providers of any such credit enhancement, surety bond or insurance policy shall also be beneficiaries of the trust. The board shall apply and disburse moneys and revenues of the trust without further appropriation or allotment."

Pending the question on adoption of the amendment, Mr. Rogers of Norwood moved that it be amended by striking out [at "A"] the text of said amendment and inserting in place thereof the following:—"in section 9, in lines 4 to 18, inclusive, by striking out the six sentences contained therein and inserting in place thereof the following six sentences:— An unpaid board of trustees consisting of the state

treasurer, ex officio, the secretary of administration and finance, ex officio, the commissioner of education, ex officio, the attorney general, ex officio, the auditor, ex officio, and two other members appointed by the state treasurer, one of whom shall have practical experience in educational planning and school building construction, and one of whom shall be an educator with demonstrated knowledge of the Massachusetts curriculum frameworks and other relevant federal and state educational standards, is hereby constituted as a public instrumentality of the commonwealth to be known as the Massachusetts school modernization and reconstruction trust. The exercise by the trust, and by the board, of the powers conferred by this chapter shall be deemed to be the performance of an essential public function. The state treasurer shall serve as chairman of the board. The board shall annually elect one of its members as vice-chairman. Each member of the board serving ex officio may appoint a designee pursuant to section 6A of chapter 30. Four members of the board shall constitute a quorum, and the affirmative vote of four members of the board shall be necessary and shall suffice for any action taken by the board."

The further amendment was adopted, thus precluding a vote on the pending amendment.

Mr. Rogers then moved that the bill be amended by adding at the end thereof the following section:

"SECTION 52. Notwithstanding any general or special law to the contrary, districts which have a racial desegregation plan approved by the board by June 30, 2000 shall have added 10 percentage points to their project reimbursement rate as calculated above for projects which have received a favorable vote, for design or construction, by the city council and mayor or town meeting by June 30, 2005, and for which all necessary application procedures have been completed, in such form as may be required by the board, not later than June 30, 2006. Said districts shall have added 5 percentage points to their project reimbursement rate as calculated above for projects which have received a favorable vote, for design or construction, by the city council and mayor on town meeting by June 30, 2011, and for which all necessary application procedures have been completed, in such form as may be required by the board, after June 30, 2006 and not later than June 30, 2012; provided that only new project applications which present clear and convincing evidence that the proposed school building project will promote the objectives of achieving racial balance expressed in Sections 37C and 37D of Chapter 71, for the students attending the new, renovated, or repaired school, will be eligible for said added percentage points. The total reimbursement rate shall in no circumstances exceed 80% of approved project costs."

The amendment was adopted.

Mr. Rogers of Norwood and other members of the House then moved that the bill be amended by striking out section 46 and inserting in place thereof the following section:

"SECTION 46. Notwithstanding the provisions of any general or special law to the contrary, no grant applications shall be accepted, and no grants shall be approved, by the board of trustees of the

School
Building
Assistance
Program.

school modernization and reconstruction trust pursuant to chapter 70B of the General Laws prior to July 1, 2007; provided, that the trust shall calculate potential reimbursement rates for each municipality in each fiscal year pursuant to the provisions of section 10 of chapter 70 B of the general laws. Applications submitted subsequent to July 1, 2007, for projects which commence construction between July 1, 2004 and July 1, 2005, shall, if approved by the board, be reimbursed at the rate calculated by the board for fiscal year 2005, using allowable cost standards and other pertinent department of education regulations in effect on July 1, 2004. Applications submitted subsequent to July 1, 2007, for projects which commence construction between July 1, 2005 and July 1, 2006, shall, if approved by the board, be reimbursed at the rate calculated by the board for fiscal year 2006, using allowable cost standards and other pertinent department of education regulations in effect on July 1, 2004. Applications submitted by the board for projects which commence construction between July 1, 2006 and July 1, 2007, shall, if approved by the board, be reimbursed at the rate calculated by the board for fiscal year 2007 pursuant to section 10 of chapter 70B of the general laws, based on regulations promulgated by the board pursuant to section 47 of this act.

Applications submitted to the board subsequent to July 1, 2007 for major repair projects which were formerly accepted by the department of education and were completed on or after January 1, 1987 shall be eligible for a one-time, partial reimbursement if such projects are deemed by the board to have been necessary to avoid future and more costly renovations of the same project and if the board determines that funding of such repair projects does not adversely impact the full funding of bonded liabilities and indebtedness under the school modernization and reconstruction trust.”

After remarks on the question on adoption of the amendment, the sense of the House was taken by yeas and nays, at the request of Mr. Peterson of Grafton; and on the roll call 149 members voted in the affirmative and 2 in the negative.

[See Ye and Nay No. 645 in Supplement.]

Therefore the amendment was adopted.

Mr. Jones of North Reading and other members of the House then moved that the bill be amended in section 44 (inserted by amendment), by striking out the following two sentences: “The board of the trust shall provide financial assistance under this chapter to the projects on the list in the order in which they appear on the list, provided that the board may deviate from said order if it determines that it is necessary to do so in order to comply with federal income tax laws or regulations related to the tax exemption of indebtedness incurred by the trust or in order to meet the cash flow needs of a particular city, town or regional school district and provided, further, that projects with respect to which, in the reasonable judgment of the board, no substantial progress shall have been made by July 1, 2009 may be removed by the board from the list. Any project so removed from the list may be the subject of a new grant application to the board under this chapter but shall have no entitlement to funding under this section.”; and inserting in place thereof the

following sentence:— Provided that the board may deviate from said order if it determines that it is necessary to do so in order to provide grants to municipalities or districts whose short-term borrowing would otherwise terminate prior to the award of the grant.

The amendment was adopted.

Mr. Kulik of Worthington and other members of the House then moved that the bill be amended by adding at the end thereof the following section:

“SECTION 53. Notwithstanding any general or special law to the contrary, the Massachusetts school modernization and reconstruction trust, with the advice of the school building advisory committee, shall conduct a comprehensive analysis of the needs of municipal and regional school districts for projects eligible for reimbursement under Chapter 70B beginning July 1, 2007. The board of the trust shall make recommendations for the adjustment of reimbursement rates, if such adjustments in the rates can be made without jeopardizing the integrity of the trust and can be funded within the current revenue provide to the trust. The trust shall file a report with the House and Senate clerks no later than January 1, 2006.”

After remarks on the question on adoption of the amendment, the sense of the House was taken by yeas and nays, at the request of Mr. Kulik; and on the roll call 151 members voted in the affirmative and 1 in the negative.

Amendment
adopted,
yea and nay
No. 646.

[See Ye and Nay No. 646 in Supplement.]

Therefore the amendment was adopted.

On the question on passing the bill, as amended, to be engrossed, the sense of the House was taken by yeas and nays, at the request of Mr. Rogers of Norwood; and on the roll call 130 members voted in the affirmative and 20 in the negative.

Bill passed
to be
engrossed,
yea and nay
No. 647.

[See Ye and Nay No. 647 in Supplement.]

Therefore the bill (House, No. 4749, printed as amended) was passed to be engrossed. Sent to the Senate for concurrence.

Lawrence,
Bill
DeFusco.

The House Bill providing that Emil DeFusco may continue employment with the police department of the city of Lawrence (House, No. 4682) was read a second time; and it was ordered to a third reading.

Order.

On motion of Mr. DiMasi of Boston,—

Ordered. That when the House adjourns today, it adjourn to meet tomorrow at one o'clock P.M.

Next
sitting.

Accordingly, without further consideration of the remaining matters in the Orders of the Day, at three minutes after seven o'clock P.M., on motion of Mr. Rogers of Norwood (Mr. Correia of Fall River being in the Chair), the House adjourned, to meet tomorrow at one o'clock P.M., in an Informal Session.

Amendment
adopted,
yea and nay
No. 645.